

Executive Summary – Enforcement Matter – Case No. 45036

Richter-Land, LLC

RN105645634

Docket No. 2012-1922-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Stor Haus Self Storage, located approximately 315 feet northwest of Farm-to-Market Road 2722 and Lone Oak Road, Comal County

Type of Operation:

Self storage facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 1, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,000

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$8,400

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$3,500

Payment Plan: 35 payments of \$100 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 24, 2012

Date(s) of NOE(s): August 27, 2012

Executive Summary – Enforcement Matter – Case No. 45036
Richter-Land, LLC
RN105645634
Docket No. 2012-1922-EAQ-E

Violation Information

1. Failed to construct the best management practices ("BMPs") as designed and approved. Specifically, the sand filter basin did not have a basin inlet with a weir structure to isolate the water quality volume, the bypass channel, the wet well system, the underdrain cut off valve, a cleanout pipe, a liner, and the approved filter media. The clean-out pipes appear to be a foot above the media, the basin walls appear to be less than five feet, and the west side of the basin is not constructed of concrete. In addition, curbing was not placed around the paved areas to direct stormwater into the inlet [30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(b)(4)(D)(ii)(II), and Water Pollution Abatement Plan ("WPAP") 13-08103101 Standard Conditions No. 2].
2. Failed to maintain the approved BMPs. Specifically, the sand filter basin revealed signs of erosion within the filter media; on the basin side walls within the basin; and on top of the basin walls (outside the basin); had an accumulation of sediment in front of and within the basin chambers' connecting pipe; and was missing caps at the underdrain clean-outs [30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(b)(5)(A), and WPAP Plan 13-08103101 Standard Conditions No. 19].
3. Failed to obtain approval of a modification to an approved WPAP prior to initiating physical and operational modifications. Specifically, approximately 0.45 acre of additional parking areas had been constructed [30 TEX. ADMIN. CODE § 213.4(a)(1), 213.4(j)(1) and (3), and WPAP No. 13-08103101, Standard Conditions No. 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Submit and begin implementing a plan that details how the sand filter basin will be re-constructed to meet the requirements of 30 TEX. ADMIN. CODE ch. 213, include contractor information, start date, construction methods to be used, post-construction inspection and test information. The plan shall include a schedule not to exceed 60 days; and
 - ii. Submit a modification application for the WPAP and associated application fee, for review and approval.

Executive Summary – Enforcement Matter – Case No. 45036
Richter-Land, LLC
RN105645634
Docket No. 2012-1922-EAQ-E

- b. Respond completely and adequately to all TCEQ requests for additional information regarding the modification within 30 days of such requests, or by any other deadline specified in writing.
- c. Within 120 days, provide a certification from a Texas Licensed Professional Engineering certifying that the permanent BMP for the sand filter basin has been constructed as designed.
- d. Within 135 days, submit written certification to demonstrate compliance with Ordering Provisions a.ii. and c.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jacquelyn Green, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Paul Richter, Owner, Richter-Land, LLC, 3126 Falling Brook, San Antonio, Texas 78258
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Sep-2012	Screening	19-Sep-2012	EPA Due	
	PCW	19-Sep-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Richter-Land, LLC		
Reg. Ent. Ref. No.	RN105645634		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45036	No. of Violations	3
Docket No.	2012-1922-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jacquelyn Green
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	20.0% Enhancement	Subtotals 2, 3, & 7	\$2,000
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Notes: Enhancement for one order with denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,036
Approx. Cost of Compliance: \$16,500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$12,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,000
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,400
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,600
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Screening Date 19-Sep-2012

Docket No. 2012-1922-EAQ-E

PCW

Respondent Richter-Land, LLC

Policy Revision 3 (September 2011)

Case ID No. 45036

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105645634

Media [Statute] Edwards Aquifer

Enf. Coordinator Jacquelyn Green

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 19-Sep-2012
Respondent Richter-Land, LLC
Case ID No. 45036
Reg. Ent. Reference No. RN105645634
Media [Statute] Edwards Aquifer
Enf. Coordinator Jacquelyn Green
Violation Number 1

Docket No. 2012-1922-EAQ-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Rule Cite(s) 30 Tex. Admin. Code §§ 213.4(k) and 213.5(b)(4)(D)(ii)(II), and Water Pollution Abatement Plan ("WPAP") 13-08103101 Standard Conditions No. 2

Violation Description

Failed to construct the best management practices ("BMPs") as designed and approved, as documented during an investigation conducted on May 24, 2012. Specifically, the sand filter basin did not have a basin inlet with a weir structure to isolate the water quality volume, the bypass channel, the wet well system, the underdrain cut off valve, a cleanout pipe, a liner, and the approved filter media. The clean-out pipes appear to be a foot above the media, the basin walls appear to be less than five feet, and the west side of the basin is not constructed of concrete. In addition, curbing was not placed around the paved areas to direct stormwater into the inlet.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 **Number of violation days** 118

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the investigation date (May 24, 2012) to the screening date (September 19, 2012).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$744

Violation Final Penalty Total \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

Economic Benefit Worksheet

Respondent Richter-Land, LLC
Case ID No. 45036
Reg. Ent. Reference No. RN105645634
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	24-May-2012	16-Jun-2013	1.06	\$35	\$709	\$744
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to construct the sand filter basin as designed and approved, and subsequently maintain the structure. Date required is the investigation date and final date is estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$744

Screening Date 19-Sep-2012

Docket No. 2012-1922-EAQ-E

PCW

Respondent Richter-Land, LLC

Policy Revision 3 (September 2011)

Case ID No. 45036

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105645634

Media [Statute] Edwards Aquifer

Enf. Coordinator Jacquelyn Green

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 213.4(k) and 213.5(b)(5)(A), and WPAP Plan 13-08103101
Standard Conditions No. 19

Violation Description

Failed to maintain the approved BMPs, as documented during an investigation conducted on May 24, 2012. Specifically, the sand filter basin revealed signs of erosion within the filter media; on the basin side walls within the basin; and on top of the basin walls (outside the basin); had an accumulation of sediment in front of and within the basin chambers' connecting pipe; and was missing caps at the underdrain clean-outs.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

118 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the investigation date (May 24, 2012) to the screening date (September 19, 2012).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

Economic Benefit Worksheet

Respondent Richter-Land, LLC
 Case ID No. 45036
 Reg. Ent. Reference No. RN105645634
 Media Edwards Aquifer
 Violation No. 2

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation no. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 19-Sep-2012

Docket No. 2012-1922-EAQ-E

PCW

Respondent Richter-Land, LLC

Policy Revision 3 (September 2011)

Case ID No. 45036

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105645634

Media [Statute] Edwards Aquifer

Enf. Coordinator Jacquelyn Green

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 213.4(a)(1), 213.4(j)(1) and (3), and WPAP No. 13-08103101 Standard Conditions No. 6

Violation Description

Failed to obtain approval of a modification to an approved WPAP prior to initiating physical and operational modifications, as documented during an investigation conducted on May 24, 2012. Specifically, approximately 0.45 acre of additional parking areas had been constructed.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4

118 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Four monthly events are recommended from the investigation date (May 24, 2012) to the screening date (September 19, 2012).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$292

Violation Final Penalty Total \$6,000

This violation Final Assessed Penalty (adjusted for limits) \$6,000

Economic Benefit Worksheet

Respondent Richter-Land, LLC
Case ID No. 45036
Reg. Ent. Reference No. RN105645634
Media Edwards Aquifer
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$6,500	24-May-2012	17-Apr-2013	0.90	\$292	n/a	\$292
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and submit a modified WPAP. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,500

TOTAL

\$292



Compliance History Report

PENDING Compliance History Report for CN603421520, RN105645634, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN603421520, RICHTER-LAND LLC	Classification: SATISFACTORY	Rating: 14.25
Regulated Entity:	RN105645634, STOR HAUS SELF STORAGE	Classification: SATISFACTORY	Rating: 14.25
Complexity Points:	4	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	APPROXIMATELY 315 FEET NORTHWEST OF FARM-TO-MARKET ROAD 2722 AND LONE OAK ROAD, COMAL COUNTY, TEXAS		
TCEQ Region:	REGION 13 - SAN ANTONIO		

ID Number(s):

EDWARDS AQUIFER REGISTRATION 13-08103101

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: September 19, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 19, 2007 to September 19, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: JR Cao **Phone** (512) 239-2543

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES, when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 10/04/2009 ADMINORDER 2009-0303-MLM-E (1660 Order)
 Classification: Major
 Citation: 30 TAC Chapter 213, SubChapter A 213.4(a)(1)
 Description: Failure to obtain approval of an Edwards Aquifer Water Pollution Abatement Plan prior to commencing the construction of regulated activities over the Recharge Zone of the Edwards Aquifer.
 Classification: Minor
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)
 Description: Failure to obtain storm water permit coverage for a small construction site by failing to develop and implement a storm water pollution prevention plan (SWP3) and posting a construction site notice.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RICHTER-LAND, LLC
RN105645634**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-1922-EAQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Richter-Land, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a self storage facility located approximately 315 feet northwest of Farm-to-Market Road 2722 and Lone Oak Road in Comal County, Texas (the "Site").
2. The Site adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE ch. 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 1, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Dollars (\$12,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Financial Assurance Section of the

Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Eight Thousand Four Hundred Dollars (\$8,400) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid One Hundred Dollars (\$100) of the undeferred administrative penalty. The remaining amount of Three Thousand Five Hundred Dollars (\$3,500) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to construct the best management practices ("BMPs"), as designed and approved, in violation of 30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(b)(4)(D)(ii)(II), and Water Pollution Abatement Plan ("WPAP") 13-08103101 Standard Conditions No. 2, as

documented during an investigation conducted on May 24, 2012. Specifically, the sand filter basin did not have a basin inlet with a weir structure to isolate the water quality volume, the bypass channel, the wet well system, the underdrain cut off valve, a cleanout pipe, a liner, and the approved filter media. The clean-out pipes appear to be a foot above the media, the basin walls appear to be less than five feet, and the west side of the basin is not constructed of concrete. In addition, curbing was not placed around the paved areas to direct stormwater into the inlet.

2. Failed to maintain the approved BMPs, in violation of 30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(b)(5)(A), and WPAP Plan 13-08103101 Standard Conditions No. 19, as documented during an investigation conducted on May 24, 2012. Specifically, the sand filter basin revealed signs of erosion within the filter media; on the basin side walls within the basin; and on top of the basin walls (outside the basin); had an accumulation of sediment in front of and within the basin chambers' connecting pipe; and was missing caps at the underdrain clean-outs.
3. Failed to obtain approval of a modification to an approved WPAP prior to initiating physical and operational modifications, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1), 213.4(j)(1) and (3), and WPAP No. 13-08103101, Standard Conditions No. 6, as documented during an investigation conducted on May 24, 2012. Specifically, approximately 0.45 acre of additional parking areas had been constructed.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Richter-Land, LLC, Docket No. 2012-1922-EAQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
- i. Submit and begin implementing a plan, that details how the sand filter basin will be re-constructed to meet the requirements of 30 TEX. ADMIN. CODE ch. 213, include contractor information, start date, construction methods to be used, post-construction inspection and test information. The plan shall include a schedule not to exceed 60 days and shall be submitted to:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

- ii. Submit a modification application for the WPAP and associated application fee, for review and approval to:

Edwards Aquifer Protection Program
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

- b. Respond completely and adequately to all TCEQ requests for additional information regarding the modification within 30 days of such requests, or by any other deadline specified in writing;
- c. Within 120 days after the effective date of this Agreed Order, provide a certification from a Texas Licensed Professional Engineering certifying that the permanent BMP for the sand filter basin has been constructed as designed; and
- d. Within 135 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.ii., and 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

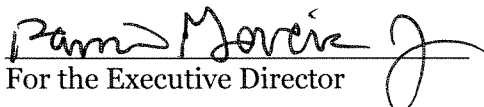
may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

8/21/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

8/23/14
Date

Paul Richter
Name (Printed or typed)
Authorized Representative of
Richter-Land, LLC

owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.